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October 29, 2002

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Written Ex Parte*
UNE Triennial Review – CC Docket No. 01-338
Local Competition – CC Docket No. 96-98
Deployment of Advanced Wireline Services – CC Docket No. 98-147

Dear Ms. Dortch:

Attached for inclusion in the record of the three above-referenced proceedings are two letters from Kevin K. Wright, Chairman of the Illinois Commerce Commission to Senator Richard J. Durbin and Senator Peter G. Fitzgerald, respectively, outlining the critical importance of the UNE platform to the continued development of competitive telecommunications markets. These letters were provided to Commission staff, as indicated below, by WorldCom, Inc.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,



Ruth Milkman

Attachment

cc: Christopher Libertelli
Jordan Goldstein
William F. Maher
Thomas Navin

Matthew Brill
Daniel Gonzalez
Michelle Carey
Brent Olson

October 1, 2002

The Honorable Peter G. Fitzgerald
United States Senator
SD-555 Dirksen Senate Office Building
Washington, DC 20510-1305

Dear Senator Fitzgerald:

Recently, there has been significant debate regarding unbundling requirements imposed on Regional Bell Operating Companies ("RBOCs") by the Federal Communications Commission ("FCC") and State Commissions ("States") in their efforts to implement the Telecommunications Act of 1996 ("1996 Act") and similar state telecommunications statutes. The debate has generally concerned rules and regulations requiring Regional Bell Operating Companies to provide combinations of elements of their networks to other telecommunications companies, and the prices for these elements. Specifically, much attention has been given to the most popular combination of UNEs, the so-called UNE platform, or "UNE-P".

The Illinois Commerce Commission strongly believes that it would be premature and dangerous to alter the current regulatory regime governing the provision of UNE-P. Illinois and many other states have expended significant effort and resources to facilitate the development of competitive telecommunications markets, and the UNE platform is a key factor to facilitating competition. *Any modifications or elimination of the UNE platform at this important stage of this evolving process would likely impede competition, lead to additional litigation battles and more bankruptcies, and further damage the currently fragile economic condition of the telecommunications industry.*

Three paths were mandated by Congress in the 1996 Act for competitors entering local telephone markets --- the construction of new networks, the use of unbundled elements of the incumbent's network, and resale. Even though the FCC required RBOC's to provide the UNE-P to competitors shortly after the 1996 Act was passed, protracted RBOC initiated litigation prevented the UNE-P from becoming a true path of entry until earlier this year. In fact, during the summer of 2001, the Illinois legislature re-wrote its telecommunication law to end the legal uncertainties pertaining to UNE-P in the State of Illinois.

After more than six years of litigation, RBOCs have only been required for four months under federal law and for just over a year under Illinois law to provide the UNE-P to requesting carriers. As a result, Illinois is *finally* seeing unbundled network element combinations being made available to requesting carriers on a non-discriminatory basis. To illustrate, SBC Ameritech Illinois was not supplying UNE-P to any carrier in September 2000, was supplying 190,000 UNE-P lines to requesting carriers in September 2001, and 335,000 UNE-P lines in February 2002. To put these numbers into perspective, SBC Ameritech Illinois

is currently serving over 6 million retail lines in Illinois. Because competing carriers have only recently been afforded the opportunity to use unbundled network element combinations, it is premature to assess whether these strategies will advance the long-term pro-competitive goals of the Act.

Many of the arguments supporting the elimination of UNE-P rules and regulations center on the prices that RBOCs are permitted to charge for the provision of network elements, which the RBOCs allege are at below cost. The current rules and regulations require RBOCs to use Total Element Long Run Incremental Cost (TELRIC) based pricing, a methodology which the FCC, and consequently, the Illinois Commerce Commission has implemented as just and reasonable rates for UNEs and which the United States Supreme Court has affirmed as appropriate.

Clearly, financial conditions in the telecommunications industry have deteriorated, reflecting a downturn in financial conditions in the economy as a whole. Any attempts, however, to link the telecommunications downturn on unbundling requirements imposed on RBOCs, are misleading. Assertions that the RBOCs diminished financial performance is a result of being forced to provide their networks to competitors at rates far below costs are nothing more than speculation. The competitive local exchange carriers ("CLECs"), who purportedly reap the benefits of alleged below-cost rates, are not merely being downgraded by analysts, rather, they are exiting the industry as is evidenced by recent CLEC bankruptcies.

Additionally, a number of potentially significant provisions of the 1996 Act have only recently been implemented. While no one can accurately predict the effect that such implementation will have, it is certain that when competition takes hold, the historical financial performance of RBOCs will decline from past periods when these firms dominated their markets. Such a result is a natural by-product of competitive forces. Regulators need look no further than recent history for an analogous situation in which regulatory restraint resulted in a successful creation of a competitive marketplace in the telecommunications industry. Similar arguments being advanced by the RBOCs today were advanced by AT&T during the post-breakup period. In that instance, congressional leaders, along with regulators, had the patience and vision to allow market forces to work and, as a result, the price of long-distance has plummeted. The big winners were long-distance consumers.

Similarly, Illinois and the nation are now on the brink of learning whether unbundling strategies can effectively bring the benefits of competition to consumers in the local retail telecommunications market. Arguments for abandoning these efforts are not compelling --- particularly when entry strategies making use of unbundled elements of the incumbent's network are only now becoming a viable option of competitive entry. We strongly urge you to reject attempts to change the current regulatory regime and to allow true UNE-P competition to work.

Sincerely,

Kevin K. Wright
Chairman

October 1, 2002

The Honorable Richard J. Durbin
United States Senator
SD-332 Dirksen Senate Office Building
Washington, DC 20510-1304

Dear Senator Durbin:

Recently, there has been significant debate regarding unbundling requirements imposed on Regional Bell Operating Companies ("RBOCs") by the Federal Communications Commission ("FCC") and State Commissions ("States") in their efforts to implement the Telecommunications Act of 1996 ("1996 Act") and similar state telecommunications statutes. The debate has generally concerned rules and regulations requiring Regional Bell Operating Companies to provide combinations of elements of their networks to other telecommunications companies, and the prices for these elements. Specifically, much attention has been given to the most popular combination of UNEs, the so-called UNE platform, or "UNE-P".

The Illinois Commerce Commission strongly believes that it would be premature and dangerous to alter the current regulatory regime governing the provision of UNE-P. Illinois and many other states have expended significant effort and resources to facilitate the development of competitive telecommunications markets, and the UNE platform is a key factor to facilitating competition. *Any modifications or elimination of the UNE platform at this important stage of this evolving process would likely impede competition, lead to additional litigation battles and more bankruptcies, and further damage the currently fragile economic condition of the telecommunications industry.*

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Kevin K. Wright
Chairman